

REMARKS

This is in response to the Office Action dated July 9, 2007 and the Advisory Action dated October 22, 2007. In view of the foregoing amendments and following representations, reconsideration is respectfully requested.

In the present response, claim 13 has been amended to correct a minor informality, and new independent claim 26 has been added. Thus, claims 13-20 and 26 are currently pending in the present application. Claims 21-25 have been withdrawn from further consideration.

It is noted with appreciation that claims 16-19 would be allowable if rewritten in independent form. However, it is submitted that independent claim 13 distinguishes over the applied references as will be demonstrated below.

In the previous Office Action, claims 13 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Griffen (U.S. Patent No. 2,506,298). Claims 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Capuano (EP 203896). Claims 13 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Merle (EP 210910).

The present invention relates to a device for transforming a dispersed liquid/gas flow into a stratified flow. More precisely, the device of the present invention concerns a process that is designed to break down drops of liquid in a gas flow, in particular a gas flow in a pipe or pipe separator. The preamble must be considered when evaluating the claim language. In this case, the claim requires structure that is capable of transforming a dispersed liquid/gas flow into a stratified flow. As will be demonstrated below, the applied prior art devices are not capable of performing the intended use as recited in the preamble. See, e.g., *In re Schreiber*, 44 USPQ2d

1429, 1431 (Fed. Cir. 1997).

Initially, it is noted that none of the applied references relates to a device for transforming a dispersed liquid/gas flow into laminar or stratified flow in a pipe or pipe separator as required in independent claim 13. Any relevant prior art must be capable of functioning to transform a dispersed liquid/gas flow into laminar or stratified flow. The applied references are not capable of transforming a dispersed liquid/gas flow into laminar or stratified flow.

Griffen is related to a centrifugal separator for the removal of particles (dust) where the particles are removed through an outlet aperture 9 in a dust collector 1 provided in an annulus between an inlet conduit 2 and outlet conduit 5.

The present invention does not include such a dust collector and is not dealing with the removal of particles, but with the stratification of a fluid flow containing a gas and one or more liquids. Therefore, the Griffen separator is fundamentally different from the present invention as defined in claim 13.

Capuano is directed to a rising (vertical) flow, cyclone type separator having only one set of blades to rotate the fluid in an upward direction. The Capuano device has nothing in common with the present invention, which is related to a horizontal pipe separator requiring horizontal flow to obtain stratification of the fluids being separated. The Capuano device is not capable of obtaining stratified flow of the fluids. Note, that independent claim 26 specifically recites that the components of the pipe separator are disposed in a horizontal orientation.

Merle discloses a cyclone type separator having an outer shell 10, an inner tubular body 12, and a venturi for the separation of particles. In the Merle device the particles are separated from the

fluid flow through longitudinal slits 18 in the inner tubular body (section 10b) and into an annulus provided between the inner and outer bodies 10, 12. The function and operation of the Merle device is completely different from the device of the present invention. It is submitted that the Merle device, which includes inner body 10 and outer shell 12, is not capable of transforming a fluid containing different phases into a stratified flow. Clearly, one of ordinary skill in the art would recognize that the heavier phase would be drained into the annulus between the inner and outer bodies (10, 12).

Since the functional language of claim 13 cannot be ignored, it is submitted that claim 13 is clearly not anticipated by the applied prior art references. Note that a claim employing functional language covers any and all embodiments which perform the recited function. *In re Swinehart*, 439 F.2d 210, 213 (Fed. Cir. 1971); see also *In re Schreiber*, 128 F.3d 1473, 1478 (Fed. Cir. 1997) (holding that a prior art apparatus was anticipatory only if the apparatus was inherently capable of performing the claimed function). Furthermore, it is noted that means-plus-function limitations are construed under the provisions of the sixth paragraph of 35 U.S.C. 112, and thus, the structure corresponding to the claim limitation must perform the identical function. As demonstrated above, the prior art structures clearly do not perform the identical function, nor are they capable of performing the function.

In view of the above, it is submitted that the present application is now clearly in condition for allowance. The Examiner therefore is requested to pass this case to issue.

In the event that the Examiner has any comments or suggestions of a nature necessary to place this case in condition for allowance, then the Examiner is requested to contact Applicant's undersigned attorney by telephone to promptly resolve any remaining matters.

Respectfully submitted,

Per GRAMME

By: 
Michael S. Huppert
Registration No. 40,268
Attorney for Applicant

MSH/kjf
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
November 9, 2007